

## SENATE BILL NO. 431

INTRODUCED BY E. STONINGTON, P. CLARK, BISHOP

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE LAW REGARDING THE REGULATION OF THE COMMERCIAL COLLECTION OF CERTAIN NONGAME WILDLIFE; DEFINING "COMMERCIAL PURPOSES"; PROVIDING THAT CERTAIN NONGAME WILDLIFE MAY NOT BE TAKEN FOR COMMERCIAL PURPOSES WITHOUT AUTHORIZATION BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; PROVIDING ~~AN~~ EXCEPTION EXCEPTIONS; AND AMENDING SECTION 87-5-102, MCA."

WHEREAS, THE LEGISLATURE FINDS IT DESIRABLE TO REGULATE OR MANAGE THE COLLECTION, HARVEST, POSSESSION, OR TRANSPORTATION OF NONGAME WILDLIFE FOR COMMERCIAL PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 87-5-102, MCA, is amended to read:

**"87-5-102. Definitions.** As used in this part, the following definitions apply:

(1) "Account" means the nongame wildlife account established in 87-5-121.

(2) "Commercial purposes" means the collection, harvest, possession, or transportation of a species or subspecies of NONGAME wildlife from the wild with the intent to barter, offer for sale, ship or transport for eventual sale, or sell the animal or any part of the animal.

~~(2)~~(3) "Ecosystem" means a system of living organisms and their environment, each influencing the existence of the other and both necessary for the maintenance of life.

~~(3)~~(4) "Endangered species" means ~~any~~ a species or subspecies of wildlife that is actively threatened with extinction due to any of the following factors:

(a) the destruction, drastic modification, or severe curtailment of its habitat;

(b) its overutilization for scientific, commercial, or sporting purposes;

(c) the effect on it of disease, pollution, or predation;

(d) other natural or ~~man-made~~ artificial factors affecting its prospects of survival or recruitment within the state; or

(e) any combination of the foregoing factors.

(4)(5) "Management" means the collection and application of biological information for the purposes of increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity of their habitat and maintaining such those levels. The term includes the entire range of activities that constitute a modern scientific resource program, including but not limited to research, census, law enforcement, habitat improvement, and education. ~~Also included within the term, when and where appropriate, is~~ The term also includes the periodic or total protection of species or populations as well as regulated taking.

(5)(6) "Nongame wildlife" means ~~any~~ a wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other wild animal not otherwise legally classified by statute or regulation of this state. Animals designated by statute or regulation of this state as predatory in nature are not classified as nongame wildlife for purposes of this part.

(6)(7) "Optimum carrying capacity" means that point at which a given habitat can support healthy populations of wildlife species, having regard to the total ecosystem, without diminishing the ability of the habitat to continue that function.

(7)(8) "Person" means ~~any~~ an individual, firm, corporation, association, or partnership.

(8)(9) "Take" means to harass, hunt, capture, or kill or attempt to harass, hunt, capture, or kill wildlife.

(9)(10) "Wildlife" means ~~any~~ a wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, or other wild animal or any part, product, egg, or offspring or the dead body or parts ~~thereof~~ of the animal."

**NEW SECTION. Section 2. Limited taking of CERTAIN nongame wildlife for commercial purposes**  
**-- exceptions.** (1) ~~Nongame~~ THE FOLLOWING NONGAME wildlife may not be taken for commercial purposes, EXCEPT AS PROVIDED IN SUBSECTIONS (3) AND (4), without prior authorization of the department, subject to regulations adopted by the department;

(A) NORTHERN FLYING SQUIRREL (GLAUCOMYS SABRINUS);

(B) PIKA (OCHOTONA PRINCEPS);

(C) PYGMY RABBIT (BRACHYLAGUS IDAHOENSIS);

(D) AMPHIBIANS NATIVE TO THE STATE OF MONTANA; AND

(E) REPTILES NATIVE TO THE STATE OF MONTANA.

(2) The department may regulate the taking of nongame wildlife for commercial purposes. Regulations may establish limitations related to the taking, possession, transportation, exportation, processing, sale or offer for sale, and shipment of nongame wildlife that are considered necessary to manage nongame wildlife.

~~(3) The provisions of subsection (1) may not be construed to prohibit the harvest of the prairie rattlesnake (Crotalus viridis viridis) for commercial purposes MAY NOT BE REGULATED UNDER THIS SECTION. However, if the prairie rattlesnake is determined to be a species in need of management because of departmental investigations conducted pursuant to 87-5-104, the harvest of the prairie rattlesnake for commercial purposes may be regulated.~~

(4) THIS SECTION DOES NOT PROHIBIT:

(A) OUTFITTING FOR THE SHOOTING OF NONGAME WILDLIFE;

(B) PAYMENT BY A LANDOWNER TO AN INDIVIDUAL FOR SHOOTING OR REMOVING NONGAME WILDLIFE; OR

(C) THE USE OF BYPRODUCTS OF NONGAME WILDLIFE IN FISHING FLIES, JEWELRY, OR OTHER HANDICRAFTS.

NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an integral part of Title 87, chapter 5, part 1, and the provisions of Title 87, chapter 5, part 1, apply to [section 2].

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